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ELY *v.* GRAY.

Sept. 17, 1919.

[100 S. E. 660.]

1. Appeal and Error (§ 1039 (17)*)—Failure to Verify Plea Not Ground for Reversal.—That special pleas which were unverified were filed by defendant is no ground for reversal.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 556.]

2. Appeal and Error (§ 1039 (5)*)—Filing of Immaterial Pleas Harmless Error.—In an action on a note, where defendant pleaded nil debet, non est factum, and two additional special pleas, setting up that plaintiff had fraudulently induced the maker to sign and seal a blank sheet of paper, the filing of such pleas was not prejudicial, though no evidence was introduced, where the whole defense was that the note was a forgery.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 553.]

3. Pleading (§ 192 (1)*)—Defective Bill of Particulars Not Ground of Demurrer.—A bill of particulars or statement of grounds of defense being no part of the pleadings, defects therein cannot be reached by demurrer, or by objections equivalent to a demurrer.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 381.]

4. Pleading (§ 324*)—Filing of Statement of Grounds of Defense.—In an action on a note, where defendant pleaded nil debet and non est factum, and plaintiff moved for a bill of particulars, the filing of a statement of grounds of defense, which set up that the note was a forgery and was executed by plaintiff to carry out a general scheme of fraud, is no ground for complaint.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 380.]

5. Evidence (§ 138*)—Of Other Transactions Part of General Scheme Admissible.—In an action on a note, where defendant claimed that it was a forgery, and had been forged by plaintiff in pursuance of a general scheme to defraud, in pursuance of which he forged other notes, testimony that plaintiff told the witness other persons were indebted to him, when they were not, etc., is admissible in support of defendant's general claim that plaintiff was forging notes, for there is an inference that, if persons were indebted to plaintiff, he would hold their notes.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 307.]

6. Evidence (§ 138*)—Latitude to Show General Scheme to Defraud.—In an action on note, where defendant asserted that it was a forgery, and claimed that it was forged by defendant in pursuance of general scheme of fraud, great latitude of proof is allowed, and evidence that defendant had forged other notes is admissible to establish his general scheme.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 307; 6 Va.-W. Va. Enc. Dig. 506.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

7. Evidence (§ 117*)—Admissible, Though Remote, in Connection with Other Evidence.—In action on a note, where defendant asserted that it was a forgery, and that plaintiff had forged it in pursuance of a general scheme of fraud, testimony that plaintiff claimed to have notes in various amounts against two, who denied any such were ever in existence, though relating to plaintiff's assertions some years prior to the date of note sued on, is not objectionable on the ground of remoteness, where there was other evidence tending to show at more recent dates plaintiff still claimed to have such notes.

8. Appeal and Error (§ 1050 (1*))—Admission of Immaterial Evidence Harmless Error.—In an action on a note, where defendant claimed it was a forgery and asserted that plaintiff was guilty of a general scheme to defraud, the admission of testimony that plaintiffs showed the witness another note signed as surety by defendant's intestate, the alleged maker, without any showing to impeach genuineness of such instrument, held harmless.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 582.]

9. Witnesses (§ 177*)—Competency as to Transactions with Persons Since Deceased.—In an action against administratrix on a note claimed to have been executed by her intestate, where she asserted that it was a forgery, and had been prepared by plaintiff in pursuance of a general scheme to defraud, and offered evidence to show that plaintiff claimed to hold notes against two persons, when in fact he did not, held that, under Code, § 3346, subd. 2, plaintiff was not a competent witness to deny such evidence.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 944; 15 Va.-W. Va. Enc. Dig. 1095.]

10. Appeal and Error (§ 1002*)—Verdict on Conflicting Evidence Conclusive.—A verdict on conflicting evidence is conclusive on appeal.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 620.]

Error to Circuit Court, Lee County.

Action by T. P. Ely against one Gray, the administratrix of G. C. Duff, deceased. There was a judgment for defendant. and plaintiff brings error. Affirmed.

J. C. Noel, of Pennington Gap, for plaintiff in error.

Davidson & Robinett and *Pennington & Cridlin*, all of Jonesville, for defendant in error.

CITY OF RADFORD *v.* BROOKS.

Sept. 17, 1919.

[100 S. E. 664.]

1. Pleading (§ 40*)—Time for Filing of Declaration.—The one-month period "after process is returned executed" within which declaration or bill is required to be filed under Code 1904, § 3241, is to

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.